

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANTHONY ZAPPIN,

Plaintiff,

- against -

MATTHEW F. COOPER, *et al.*,

Defendants.

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Case No. 20-cv-2669 (ER)

MEMORANDUM

**PLAINTIFF’S MEMORANDUM IN SUPPORT OF HIS MOTION REQUESTING THAT
HIS AMENDED COMPLAINT DATED NOVEMBER 9, 2020 BE DECLARED
HIS AMENDMENT AS A MATTER OF COURSE UNDER FED. R. CIV. P. 15(a)(1)(B)**

Plaintiff Anthony Zappin (“Plaintiff”), proceeding *pro se*, hereby submits this memorandum in support of his Motion Requesting That His Amended Complaint Dated November 9, 2020 Be Declared His Amendment as a Matter of Course Under Fed. R. Civ. P. 15(a)(1)(B):

1. Plaintiff initiated this action on March 31, 2020. (*See* Dkt. No. 1.) Defendants Cooper and Liebhauser appeared on September 11, 2020 (*see* Dkt. No. 20) and September 23, 2020 (*see* Dkt. No. 24), respectively.

2. On October 30, 2020, Defendants wrote letter motions to the Court requesting a conference concerning them filing motions to dismiss in this action. In those letters, Defendants raised several misleading and meritless legal arguments. They also raise assertions that Plaintiff failed to sufficiently plead facts with respect to his abuse of process, retaliation and conspiracy claims. Plaintiff’s November 9, 2020 Amended Complaint, attached hereto, expands on his factual allegations supporting his claims.


3. Fed. R. Civ. P. 15(a)(1)(B) allows a Plaintiff to amend his complaint once as a matter of course within twenty-one (21) days after Defendants serve a motion under Rule 12.

4. To date, Defendants have not filed a formal Rule 12 motion. They have only filed their letter motions seeking a conference with respect to filing Rule 12 motions to dismiss and raising legal arguments they intend to make.

5. Attached hereto as Exhibit A is Plaintiff's Amended Complaint dated November 9, 2020.

6. Plaintiff respectfully requests that the Court deem Plaintiff's November 9, 2020 Amended Complaint his one amendment as a matter of course under Fed. R. Civ. P. 15(a)(1)(B).

Dated: November 9, 2020
Huntington, WV



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